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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,629	01/05/2004	Yong-Jun Kwak	678-1334	2454

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DILWORTH & BARRESE, LLP
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EXAMINER

NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I) Claims 1-4 and 25 relate to determining a data rate of the UE based on the uplink channel condition information and **the total transmission power information**.

II) Claims 6-8, 10 and 26 relate to determining a data rate of the UE based on the uplink channel condition information and **the maximum allowed uplink transmission power information**.

III) Claims 20-22 relate to determining a data rate of the UE considering information having **a smaller value out of** the maximum allowed uplink transmission power information and the total transmission power information and the uplink channel condition information.

IV) Claims 23-24 relate to determining a data rate of the UE considering information having **value less than** the maximum allowed uplink transmission power information and the total transmission power information and the transmission power margin information.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination determining a data rate of the UE has separate utility such as the uplink channel condition information and the maximum allowed uplink transmission power information, a smaller value out of the maximum allowed uplink transmission power information and the total transmission power information and the uplink channel condition information, and

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value less than the maximum allowed uplink transmission power information and the total transmission power information and the transmission power margin information. See MPEP § 806.05(d).

3. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844.

The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Q Nguyen
Examiner
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